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**REPORT TO THE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE**

RELEASED

**Information On Federally Owned
Submarginal Land Within
The Cheyenne River Reservation
In South Dakota**

B-147652, B-147655

Bureau of Indian Affairs
Department of the Interior

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**

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JAN. 26, 1973



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-147652

B-147655

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Dear Mr. Chairman:

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In accordance with your request of July 31, 1972, this is our report containing information on federally owned submarginal land within the Cheyenne River Reservation in South Dakota. This report updates a section (pp. 60 to 64) of our 1962 report on review of proposed legislation for conveying to certain Indian tribes and groups submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, Aug. 13, 1962). 6 10

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

James B. Axtell

Comptroller General
of the United States

CI
The Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office

COMPTROLLER GENERAL'S
REPORT TO THE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

INFORMATION ON FEDERALLY OWNED
SUBMARGINAL LAND WITHIN THE
CHEYENNE RIVER RESERVATION
IN SOUTH DAKOTA

Bureau of Indian Affairs
Department of the Interior
B-147652, B-147655

D I G E S T

WHY THE REVIEW WAS MADE

C The Chairman of the Senate Committee on Interior and Insular Affairs requested the General Accounting Office (GAO) to

--update the factual data in the 1962 GAO report on its review of proposed legislation for conveyance of submarginal land administered by the Bureau of Indian Affairs (BIA) to certain Indian tribes and groups and

--comment on how conveyance of the submarginal land to the Indian tribes can contribute to their social and economic advancement.

FINDINGS AND CONCLUSIONS

There are 3,738 acres of federally owned submarginal land within the Cheyenne River Reservation in South Dakota, which is inhabited by the Cheyenne River Sioux Tribe. (See p. 3.)

During the 1930s, the Government paid about \$18,000 for 5,111 acres of submarginal land. Since that time the Corps of Engineers has acquired 1,373 acres of the submarginal land for the construction of a reservoir. (See p. 6.)

In August 1972, BIA estimated that

the remaining 3,738 acres of submarginal land had a total value of about \$112,000, or \$30 an acre. (See p. 6.)

The only improvements on the submarginal land were two stock-water dams that the users of the land constructed in 1955. The cost of construction was about \$870. (See p. 6.)

The tribe has had free use of the submarginal land since October 1964 under a revocable permit issued by BIA. Although the present permit allows free use of the submarginal land, BIA permits issued for various periods through October 1964 required the payment of annual rent and, up to that time, the Government had collected about \$4,000 in rent. (See p. 7.)

Indian subpermittees have used the submarginal land for grazing purposes. During the 5-year period from 1967 through 1971, the tribe received income of about \$3,400 from subpermits issued on the submarginal land. These revenues helped support the tribal budget. (See p. 7.)

A Cheyenne River agency office official told GAO that no determination had been made as to the water rights on the submarginal land. The official said that some of the land is adjacent to the Oahe Reservoir

and that some of the land contains small streams. The official said also that none of the submarginal land was under irrigation and had not been irrigated for many years. (See p. 8.)

A 1963 report by the Bureau of Mines on mineral resources and their potential on the Cheyenne River Reservation stated that there was a potential for the production of oil, gas, sand, gravel, lignite, and certain other minerals. An agency office official told GAO in August 1972 that there were no known mineral resources on the submarginal land. (See p. 8.)

Tribal land, consisting of 912,634 acres, had been used primarily by Indians for grazing. Income from grazing amounted to about \$244,000 during calendar year 1971. (See pp. 8 and 9.)

The Indian Claims Commission awarded \$1.3 million to the tribe in June 1969 for amounts the Government owed the tribe based on an accounting of the tribe's trust funds. As of November 1972, distribution of the funds had not been authorized. (See p. 9.)

As of November 1972, there were two claims pending with the Indian Claims Commission. The claims involve several Sioux tribes, including the Cheyenne River Sioux, and are for fair payment of land ceded to the Government in 1868 and 1876. No specific amounts were established for these claims. (See p. 10.)

The chairman of the tribal council told GAO that he was not aware of any planned change in the use of the submarginal land and that the tribe

probably would continue to lease the land for grazing if it were conveyed to the tribe. An area office official said that the submarginal land is included in range units operated by tribal members and that it was probable that the land would continue to be used by the same Indians. (See p. 7.)

The submarginal land is located within a land consolidation area designated by the tribal council for consolidating tribal landholdings. An area office official told GAO that the tribe was making every effort to retain the land in the consolidation area for Indian use and had purchased land from individual tribal members to avoid sale of the land to non-Indians and loss of its use by Indians. The official said also that conveyance of the submarginal land to the tribe would be in accord with the long-range tribal program of increasing utilization of Indian lands by tribal members. (See pp. 6 and 7.)

The conveyance of the land to the tribe would increase its tribal landholdings, which at present total 912,634 acres, by 3,738 acres within the tribe's land consolidation area. However, the tribe had no plans to change the use it was making of the land and indicated that it would continue to lease the land for grazing in the same manner as was being done in the past under a revocable permit. If the land were conveyed to the tribe, it would remove the doubt as to whether the tribe would continue to have use of the land and continue to receive the same social and economic benefits as it now receives under the revocable permit. (See p. 10.)

CHAPTER 1

INTRODUCTION

Pursuant to a request dated July 31, 1972, from the Chairman of the Senate Committee on Interior and Insular Affairs (see app. I) and in accordance with subsequent discussions with his office, we have updated the factual data on pages 60 to 64 of our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ The Chairman also requested comments on how conveyance of the submarginal land to the Indian tribes can contribute to their social and economic advancement.

This report pertains to the 3,738 acres of federally owned submarginal land within the Cheyenne River Reservation in South Dakota which is inhabited by the Cheyenne River Sioux Tribe.

We reviewed records and interviewed officials of BIA's central office in Washington, D.C.; area office in Aberdeen, South Dakota; Cheyenne River agency office in Eagle Butte, South Dakota; and of the tribe. We obtained land appraisal, real estate tax, and land ownership information, as appropriate, from officials of Dewey and Ziebach Counties, South Dakota.

CHEYENNE RIVER RESERVATION

The Fort Laramie Treaty of April 29, 1868 (15 Stat. 635), created the Great Sioux Reservation which included nearly all the Dakota Territory west of the Missouri River. The

¹"Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by Bureau of Indian Affairs, Department of the Interior" (B-147652, B-147655, Aug. 13, 1962). This report was submitted to the House and Senate Committees on Interior and Insular Affairs.

acts of April 30, 1888 (25 Stat. 94), and March 2, 1889 (25 Stat. 888), divided the Great Sioux Reservation into six separate reservations, including the Cheyenne River Reservation.

The Cheyenne River Reservation is located in Dewey and Ziebach Counties in north central South Dakota. The reservation boundaries are the Missouri River to the east, the Standing Rock Indian Reservation to the north, the Cheyenne River to the south, and the 102° meridian to the west.

In August 1972, BIA, county, and Corps of Engineers officials furnished the following information on ownership of the land within the reservation boundaries.

	<u>Acres</u>
Indian land:	
Tribal (title held by the Government in trust for the tribe)	912,634
Allotted by the tribe to individual Indians	<u>490,829</u>
	<u>1,403,463</u>
Other land:	
Corps of Engineers, Government-owned	96,966
Submarginal land, Government-owned	3,738
Other, Government-owned	176
State and county land	42,893
All other ownerships	<u>1,259,678</u>
	<u>1,403,451</u>
Total	<u>2,806,914</u>

CHEYENNE RIVER SIOUX TRIBE

The tribe adopted its constitution and bylaws under authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended. They were ratified on December 7, 1935, and approved by the Secretary of the Interior on December 27, 1935. Self-government was established by dividing the reservation into 13 political districts and forming a tribal council. Representatives are elected from each district, and a tribal chairman, secretary, and treasurer are elected at large.

A March 1972 BIA labor force report, prepared by the agency office, showed that 4,206 Indians lived on the reservation and 102 adjacent to the reservation. The report showed also that the Indian labor force totaled 1,075, of which 292, or 27 percent, were unemployed. An agency office official advised us that the tribe had 6,665 enrolled members as of August 1972.

CHAPTER 2

INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND,

AND TRIBAL FINANCIAL RESOURCES

SUBMARGINAL LAND

The submarginal land consists of 3,738 acres in 14 tracts ranging in size from 10 to 675 acres. All the land is located in the northeast part of Dewey County within the reservation boundaries and is surrounded by various combinations of privately owned, tribal, and allotted land. The submarginal land is also within a land consolidation area designated by the tribal council for consolidating tribal landholdings.

The Government purchased the submarginal land during the 1930s under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the act of August 24, 1935 (49 Stat. 750, 781). According to information at the area office, the Government paid \$18,202 for 5,111 acres of submarginal land. A part of these lands (1,373 acres) was taken under the act of September 3, 1954 (68 Stat. 1191) for the Oahe Reservoir, constructed on the Missouri River by the United States Army, Corps of Engineers. This left 3,738 acres of submarginal land for the tribe to use.

In August 1972, area office officials estimated that the total value of the 3,738 acres of submarginal land was about \$112,000, or \$30 an acre.

Based on information obtained from the Dewey County assessor, the estimated calendar year 1972 real estate taxes on this land would be about \$1,095 if the submarginal land were subject to real estate taxes.

Improvements

An agency office official reported in January 1971 that there were two stock-water dams on the submarginal land which the users of the land constructed in 1955. The cost

of construction was about \$870, of which the Department of Agriculture paid \$337. An agency office official advised us in August 1972 that there were no other improvements on the land.

Present use

Since October 1964, the tribe has had free use of the submarginal land under a revocable permit issued by BIA. BIA permits issued for various periods through October 1964 required the payment of annual rent for use of the submarginal land. In October 1964, the Acting Secretary of the Interior directed that charges to Indian tribes for use of the submarginal land be discontinued. According to a report prepared by a consultant for the National Council on Indian Opportunity, the Government had collected about \$4,000 in rent up to that time.

The tribe has subpermitted the submarginal land to nine Indians who used it for grazing purposes. The revenue received by the tribe helped finance the tribal budget. During the 5-year period from 1967 through 1971, the tribe received income of \$3,431 from subpermits issued on the submarginal land.

Planned use

The chairman of the tribal council told us that the tribe had not received offers from Indian or non-Indian promoters of business enterprises for use of the submarginal land. He said also that he was not aware of any planned change in the use of the land and that the tribe probably would continue to lease the land for grazing if it were conveyed to the tribe.

An area office official told us that the submarginal land is included in range units operated by tribal members and that it was probable that the land would continue to be used by the same Indians. He said that the tribe was making every effort to retain the land in the consolidation area for Indian use and had purchased land from individual tribal members to avoid sale of the land to non-Indians and loss of its use by Indians. He said also that conveyance of the

submarginal land to the tribe would be in accord with the long-range tribal program of increasing utilization of Indian lands by tribal members.

Water resources

An agency office official told us that no determination had been made as to the water rights on the submarginal land. The official said that some of the land is adjacent to the Oahe Reservoir and that some of the land contains small streams. The official said that none of the submarginal land was under irrigation and it had not been irrigated for many years.

Mineral resources

In 1963 the Bureau of Mines made a study of mineral resources and their potential on the Cheyenne River Reservation and the results were reported in November 1963. The report stated that there was a potential for the production of lignite, sand, gravel, gas, oil, and certain other mineral resources on the reservation but made no specific reference to the submarginal land.

An agency office official told us in August 1972 that there were no known mineral resources on the submarginal land.

TRIBAL LAND

Tribal land, consisting of 912,634 acres, is located in scattered tracts throughout the reservation. The land is surrounded by allotted land, State and county land, Government-owned land, privately owned land, and submarginal land. BIA records for the year ended December 31, 1971, showed the following uses of tribal land.

<u>Use</u>	<u>Acres used by</u>		<u>Total</u>
	<u>Indians</u>	<u>Non-Indians</u>	
Grazing	840,385	64,402	904,787
Dry farming	3,600	4,200	7,800
Other nonagricultural	47	-	47
Total	<u>844,032</u>	<u>68,602</u>	<u>912,634</u>

The principal industry on the reservation is agriculture, which is centered around the livestock business and includes some grain farming. The tribal land is used primarily for grazing purposes. The grazing land is included in range units which are leased to Indians and non-Indians. The income from these range unit leases amounted to \$243,591 during calendar year 1971. Of this amount, \$203,520 was paid by Indians. Agency office records showed that, as of June 1972, there were about 257 self-employed Indian cattle operators on the reservation. Of this number, 18 operators owned more than 300 cattle, 56 operators owned between 201 and 300, and 183 operators owned less than 200.

TRIBAL FINANCIAL RESOURCES

The following table, based on a balance sheet which was furnished to us by the area office and which we did not verify, shows the financial condition of the tribe as of June 30, 1971.

Assets:	
Cash	\$ 1,414,565
Receivables	792,236
Inventories	41,430
Equipment	51,639
Buildings	148,035
Land	<u>18,145,970</u>
Total	20,593,875
Liabilities	<u>358,710</u>
Equity	<u>\$20,235,165</u>

In addition, the tribe had an equity of about \$626,000 in a telephone enterprise as of December 31, 1971.

On June 18, 1969, the Indian Claims Commission awarded \$1.3 million to the Cheyenne River Sioux Tribe for amounts the Government owed the tribe based on an accounting of the tribe's trust funds. Funds to cover the award were appropriated by the act of December 26, 1969 (83 Stat. 447). As of November 1972, distribution of the funds had not been authorized. The chairman of the tribal council told us that

a decision had not been made as to how the proceeds of the award would be distributed.

As of November 1972, there were two claims pending with the Indian Claims Commission. The claims involve several Sioux tribes, including the Cheyenne River Sioux, and are for fair payment of land ceded to the Government in 1868 and 1876. No specific amounts were established for these claims.

SUMMARY

The chairman of the tribal council told us that he was not aware of any planned change in the use of the submarginal land and that the tribe probably would continue to lease the land for grazing if it were conveyed to the tribe. An area office official said that the submarginal land is included in range units operated by tribal members and that it was probable that the land would continue to be used by the same Indians.

The submarginal land is located within a land consolidation area designated by the tribal council for consolidating tribal landholdings. An area office official told us that the tribe was making every effort to retain the land in the consolidation area for Indian use and had purchased land from individual tribal members to avoid sale of the land to non-Indians and loss of its use by Indians. The official said also that conveyance of the submarginal land to the tribe would be in accord with the long-range tribal program of increasing utilization of Indian lands by tribal members.

The conveyance of the land to the tribe would increase its tribal landholdings, which at present total 912,634 acres, by 3,738 acres within the tribe's land consolidation area. However, the tribe had no plans to change the use it was making of the land and indicated that it would continue to lease the land for grazing in the same manner as was being done in the past under a revocable permit. If the land were conveyed to the tribe, it would remove the doubt as to whether the tribe would continue to have use of the land and continue to receive the same social and economic benefits as it now receives under the revocable permit.

HENRY M. JACKSON, WASH., CHAIRMAN
CLINTON P. ANDERSON, N. MEX.
ALAN BIBLE, NEV.
FRANK CHURCH, IDAHO
FRANK E. MOSS, UTAH
QUENTIN N. BURDICK, N. DAK.
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LEN B. JORDAN, IDAHO
PAUL J. FANNIN, ARIZ.
CLIFFORD P. HANSEN, WYO.
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JERRY T. VERKLER, STAFF DIRECTOR

United States Senate

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
WASHINGTON, D.C. 20510

July 31, 1972

The Honorable Elmer B. Staats
Comptroller General of the United States
Washington, D. C.

Dear Elmer:

This letter is in reference to my letter dated April 1, 1971, in which I requested your staff to begin updating the Comptroller General's Report on Submarginal Land which was submitted to the House and Senate Committees on Interior and Insular Affairs on August 13, 1962.

It has recently been brought to my attention that the Department of the Interior is making a study of instances in which a tribe or group of Indians seeks to acquire land and, as a result of this study, does not intend to submit any further proposed legislation and related comments on the proposed transfer of submarginal lands to Indian tribes and groups until the study is completed.

Previous agreements provided for your staff to initiate the updating of factual data in your 1962 report at the time the Department prepared a draft of proposed legislation providing for the transfer of submarginal land to an Indian tribe or group. Under these arrangements, reports were issued on four Indian tribes or groups and I understand that reports are currently in process on five additional tribes or groups.

APPENDIX I

The Honorable Elmer B. Staats

Page 2

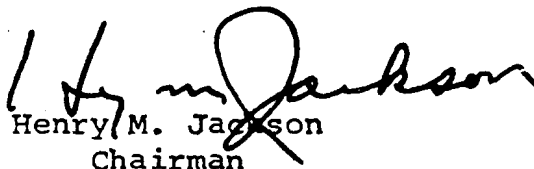
July 31, 1972

Because the Department apparently does not plan to submit any further proposed legislation providing for the transfer of submarginal lands to Indian tribes and groups until after its study is completed, please consider this letter an official request to have your staff begin updating the factual data in the 1962 report regarding the remaining nine Indian tribes or groups and to furnish individual reports thereon as soon as each is completed.

I would like for your reports to include comments on how the conveyance of the lands in question to Indian tribes can contribute to their social and economic advancement.

Your assistance is appreciated.

Sincerely yours,


Henry M. Jackson
Chairman

HMJ:fge